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REPORT
100-426

DROUGHT ASSISTANCE ACT OF 1988

JULY 25, 1988.—Ordered to be printed

Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 2631]

The Committee on Agriculture, Nutrition, and Forestry to which was referred the bill (S. 2631) having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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BRIEF EXPLANATION

The major provisions of the bill are briefly described below.

The bill will consolidate and revise current laws providing for emergency livestock feed assistance to livestock producers who have been adversely affected by natural disasters. Under the bill, these emergency programs will be made available with respect to a broader category of livestock than is the case under current law.

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Two types of livestock operations would receive that immediate assistance under the bill if adversely affected by a natural disaster. Assistance would be provided to operations where a livestock producer grows feed for the livestock but, because of the disaster, has suffered a substantial loss in feed production, and to operations where foundation herds of livestock are threatened because of the unavailability of feed or because of the excessive costs associated with obtaining feed.

The Secretary of Agriculture also would be given the discretion to assist other livestock producing operations if it is necessary to alleviate the crisis caused by the disaster.

The Secretary would be authorized to provide various forms of assistance to livestock producers suffering from a natural disaster. The Secretary could make feed available to affected producers at reasonable costs and provide transportation assistance with respect to feed, hay, or livestock. The bill also authorizes emergency water assistance and the donation of commodities for eligible livestock producers.

The Secretary's authority to reduce the price support level for milk on January 1, 1989, by 50 cents per hundredweight would be rescinded.

The bill provides disaster payments for producers of commodities whose production has been substantially lowered as a result of the 1988 drought. These payments would be made to producers who have suffered over a 35-percent loss in production as a result of the 1988 drought.

Eligible producers would receive payments based upon a percentage (65 percent) of the gross returns the producers expected to receive for their crops at the beginning of the 1988 crop year.

Both the emergency livestock feed assistance and disaster payment provisions are subject to limitations on the amount of benefits any one person may receive ($50,000 for livestock feed assistance and $100,000 for disaster payments). Various mechanisms are built into the bill to ensure that persons receiving payments or assistance under the bill will be compensated only once for their losses.

Under the bill, the Secretary of Agriculture could take certain steps to help correct supply and demand imbalances with respect to soybeans, oats, wheat, and feed grains. The Secretary could authorize the planting of soybeans on base acreage without the loss of base history. Further, the bill authorizes producers, under certain conditions, to switch an acreage base designation from wheat, feed grains, cotton, or rice, to oats, thus allowing more oats to be planted in 1989 and 1990. The bill would increase the availability during the 1988 marketing year of grains held in the farmer owned reserve once the reserve is released.

The bill contains provisions designed to encourage forbearance on loans made to farming operations that are suffering severe economic losses as a result of the 1988 drought. Current loan programs are to be made readily available to farmers and rural enterprises adversely affected by the drought.

The bill authorizes various conservation enhancement, wildlife management, and water management programs designed to help repair some of the damage done to the environment by the drought

and to help rural areas cope better with water deficiencies that may occur in the future.

Finally, the bill requires the Secretary of Agriculture to prepare a drought relief contingency plan outlining actions that might be taken to help persons suffering from future droughts; provides for the discounted sale of government owned corn to ethanol plants suffering economic distress because of the effects of the drought; and provides that it is the Sense of Congress that no embargo on agricultural exports should be imposed and that certain tax legislation affecting farmers be repealed.

Background

INTRODUCTION

The drought of 1988 is unusual for several reasons. First, it is a spring drought of enough severity to preclude some crops from germinating. Second, the drought is very widespread, affecting many of the main production regions of the United States.

Further, many parts of the United States suffering from the drought also had substandard winter rains or snows. The subsurface moisture in these areas was, therefore, below normal at the beginning of the abnormally dry spring. Without the establishment of good subsoil moisture through spring and winter rains, crops did not have moisture reserves to fall back on in periods of low rainfall during the growing season.

Most droughts in the main production regions of the United States, while infrequent, usually occur in the months of July and August. This is after crops have emerged and are entering the vegetative or reproductive stages of development. Because the crops are growing at that time, they can better withstand short periods without rain.

However, an early season drought can preclude seeds from germinating, killing a crop before it is ever established. Young crops are more susceptible to damage due to dry, hot conditions.

The geographic distribution of the 1988 drought is also of particular concern. The Congressional Research Service has indicated that if the portions of the country that are rated as suffering from "extreme", "severe" or "moderate" drought are combined, more than half of the country has suffered from drought during the early summer of 1988. Conversely, the drought of 1986 and 1987 was limited primarily to southern and Mississippi River delta states.

With the 1986 and 1987 droughts, the reduction in supply of the major program crops (wheat, feed grains, upland cotton, and rice) was not large enough to affect market prices significantly. Therefore, producers who had their crops damaged by those droughts still received sizeable deficiency payments from the government during those years.

The drought of 1988 on the other hand is very widespread. Yields are expected to be reduced in nearly every major corn and spring wheat producing state. This reduction in grain supplies, particularly for feed grains, will raise market prices and reduce, if not eliminate, deficiency payments for a number of crops. Thus, producers

face a loss not only of their crop, but of government income support as well.

CROPS

The drought has most seriously affected forage supplies, corn, spring wheat, sorghum, barley, oats and soybean production. Winter wheat, planted in the fall, escaped most of the effects of the drought. Cotton and rice production at the national level is not expected to be significantly affected by the drought.

Corn

As the 1988 corn crop has approached the critical reproductive stage, dry, hot conditions have combined to reduce sharply the prospects for good yields in much of the corn belt. Low spring rainfall hit areas of the eastern corn belt particularly hard with over 25 percent of the corn crop in poor or very poor condition in Indiana, Ohio, and Michigan as early as June 12, according to Department of Agriculture surveys.

By the end of June, there were clear indications that even more of the corn crop had been seriously affected by high temperatures and low moisture conditions. Six states had more than a quarter of their corn in poor and very poor condition. These six states normally account for 35 percent of the United States corn crop.

However, the most noticeable change occurred during the week of July 10. On July 10, ten of the 17 reporting states had 50 percent of the corn crop in poor or very poor condition. These ten states normally account for almost 70 percent of United States corn production.

	Percent of U.S. 1987 production	Percent of corn crop in poor or very poor condition as of				
		June 12	June 19	June 26	July 3	July 10
Illinois	21	3	13	19	22	66
Iowa	19	3	8	21	17	55
Nebraska	12	1	0	8	5	7
Indiana	9	26	40	55	65	90
Minnesota	8	13	18	37	30	50
Ohio	6	26	30	41	49	72
Michigan	3	25	25	35	45	60
Missouri	3	28	47	80	73	78
Wisconsin	3	15	23	28	28	5
Kansas	2	11	17	23	27	30

Spring wheat

In terms of reduced production, the spring wheat crop has been the hardest hit of all crops. The 1988 spring wheat crop (which normally accounts for about one-fourth of the total United States wheat crop) in many cases either failed to emerge, emerged but with very thin stands, or headed with very few kernels. North Dakota, Montana, Minnesota, and South Dakota are the largest spring wheat producing areas.

The Department of Agriculture's July 10 crop condition report estimated that 71 percent of the spring wheat crop was in either poor or very poor condition. Although production estimates for

spring wheat have not yet been released by the Department of Agriculture, the spring wheat crop could easily be reduced by 50 percent from production levels of a year earlier. Durum wheat will probably suffer one of the largest annual production shortfalls in history.

Non-program crops

Most of the crops produced in the United States are grown without the benefit of income support programs. These crops range from hay to fruits and vegetables to tree nuts. In 1987, 45 percent of cash receipts from crops were from hay, vegetables and melons, fruits and tree nuts and other non-program crops.

The production of non-program crops, with the exception of hay, tend to be localized. For example, 86 percent of all dry edible beans are produced in five states. 73 percent of all potatoes produced are grown in seven states. All hops grown in the U.S. are planted in four states. Over 77 percent of all fruits and edible tree nuts are produced in three states.

Because of the level of concentration in these crops, the local economic effects of the drought on these crops could be severe. Without economic assistance for these crops in the form of disaster payments, these producers and the local economies could face negative long term consequences.

This factor was recognized when legislation was drafted to alleviate the effects of the 1986 drought. Non-program crops were eligible for disaster assistance using the same form of assistance as program crops.

Peanuts, sugar, tobacco and soybeans

Peanuts, sugar, tobacco and soybeans do not receive direct income support payments. Instead, the price of these commodities are supported through direct and indirect loan programs. The loan programs are used to support the price of the various commodities through loans for the raw commodity, or for products derived from the raw commodity.

Because the price support program is used to control market availability, producers of these crops generally expect to receive the loan rate, or some adjustment to the loan rate, for their crops. With the exception of the soybeans, prices for these commodities have closely followed the loan rate for several years.

Sugar producers do not receive a direct loan from the Commodity Credit Corporation. Instead, loans are provided to processors of sugar at such price that the producer receives the intended price. For the 1984–1986 crops of sugar, the raw sugar market price was below the market price objective. This makes the loan rate commensurate with producers price expectations.

Prices for flue-cured and burley types of tobacco have been within a few cents per pound of the support level for several years. For the 1987 crop, flue-cured prices showed some signs of strengthening, but with increased plantings in 1988, prices were expected to remain within a few cents of support prices.

Soybean prices for the past five years, after adjusting for the high and low prices have averaged $5.55 per bushel at the farm. The 1988 crop year loan rate for soybeans was $4.53 per bushel.

Oilseed plantings

The plantings of oilseeds in the United States have fallen significantly in the past few years. As recently as the 1982 crop, the United States planted 70.9 million acres to soybeans. In 1987, only 57.4 million acreas were planted. A large portion of the reduction in soybean plantings have come from a lack of double-cropping in the southeast. In 1982, more than 8 million acres of soybeans were double cropped in the southeast. In 1987 that total was just over 2 million acres.

At the same time plantings of soybeans have expanded in South America and in Europe as producers in these regions have reacted to the divergence in feed grain and oilseed prices. Soybean production outside of the United States has increased by 37 percent from 1983 to 1987.

Part of the reduction in soybean plantings in the United States have come about due to the rigid planting provisions of the Food Security Act of 1985. Producers of program crops that plant area to soybeans or other oilseeds face a permanent reduction in program crop acreage. Because of the benefits associated with the program crops, producers are reluctant to give up program crop acreage base. The Subcommittee on Production and Stabilization of Prices held hearings on the issue of reduced soybean plantings in March.

Pasture conditions

An early season drought dramatically affects the establishment of pasture grasses and hay. This has been particularly evident in the Upper Great Plains states and other parts of the country dependent on spring rains.

Pasture and range conditions were 68 percent of normal on June 1—the lowest since 1934. In 14 states conditions were very poor or worse. In North Dakota, the pasture rating was 38 percent or "extreme drought".

Pasture conditions continued to deteriorate during June, with the national pasture rating dropping to 46 percent on July 1. By July 1, 15 out of the 48 states reported pasture conditions consistent with an "extreme drought" as reported by the Department of Agriculture.

Livestock

Input price increases have sharply lowered the margins of all livestock producers. The number of cattle placed on feed in May was the highest since data has been collected (16 years) as many producers who normally graze cattle during this time were forced to place cattle on feed as a result of poor pasture conditions. At the same time, the price needed to cover feed and feed calf acquisition costs in the Great Plains rose from $60 per hundredweight in June of 1987 to nearly $71 per hundredweight in June of 1988.

In the dairy industry, the price of milk has fallen with the reduction in the milk support price, but feed prices have increased by nearly 70 percent since January 1, 1988. This places the dairy industry in a severe cost-price squeeze.

The reduced roughage supplies have forced the movement or sale of cattle at a time when replacement heifers are traditionally en-

tering the herd. With the cattle herd at 99 million head on January 1, 1988, the lowest level since 1961, there is little room for further retrenchment in the cattle industry if adequate supplies of beef are to be maintained.

This has serious implications for the consumer. In order to rebuild the herd, animals must be held back from the market. When these animals are retained, the supply of meat at the retail market will go down, driving the retail price of meats up. The more cattle are slaughtered now due to lack of roughage, the more prices for beef will increase in the future.

Reductions in the livestock herd, and particularly the cattle herd have long-term implications for all of agriculture. A breeding cow slaughtered now can take up to three years to replace. Time delays are not as long for hogs or poultry producers, but lags exist in these industries as well.

Any reductions in the beef, pork or poultry herds this year because of the drought will reduce the demand for feed grains and oilseeds next year. In order to keep the demand for grains and oilseeds strong, it is important that the basic livestock herds be maintained at a relatively stable level.

Dairy, fed beef and other beef cattle account for more than 40 percent of all corn used for feed. For that reason, it is in the interest of both crop and livestock producers to limit the amount of forced livestock sales.

Purpose and Need

The Committee did not attempt to enact omnibus disaster relief assistance because of the urgency associated with the 1988 drought. The plight of crop and livestock producers was the primary focus of Committee hearings on this emergency and is the primary focus of this bill. This bill is designed to provide equitable relief to as wide a spectrum of producers injured by this drought as is possible—given time and budgetary constraints.

EMERGENCY LIVESTOCK ASSISTANCE

The most immediate problems caused by a drought and other natural disasters are typically in the livestock sector. Forage shortages and increased feed prices can cause mass liquidation of foundation herds of livestock, causing oversupply of meat in the short-term and undersupply in the long term.

Several authorities are currently available to the Secretary to aid livestock producers adversely affected by a disaster. However, some of these authorities overlap, some have expired or were tailored only to specific disaster situations, and others have not been fully exploited by the Department of AGriculture.

The bill would consolidate and revise these laws by adding a new title IV to the Agricultural Act of 1949 containing permanent authorities for emergency livestock assistance. This will ensure that the Secretary of Agriculture will have permanent authority to respond to livestock emergencies in an efficient and timely manner. This consolidation will also help make livestock producers more easily aware of the various forms of assistance that might be available to them in the case of a disaster.

The bill incorporates and revises current authorities into the new provisions, including authorities set forth in section 1105 of the Food and Agriculture Act of 1977 and section 407 of the Agricultural Act of 1949.

Section 1105 of the Food and Agriculture Act of 1977 is the statutory authority for the Emergency Feed Program under which the Department of Agriculture pays eligible livestock owners 50 percent of the cost of feed purchased during an emergency in which producers suffered substantial loss of feed production for their livestock due to a natural disaster. The regulations implementing this program (codified at 7 C.F.R. Part 1475) define livestock eligible for the program to mean beef and dairy cattle, horses, mules, sheep, goats, swine and poultry.

Another emergency feed program, where feed owned or controlled by the Commodity Credit Corporation is made available to livestock producers at a cost equal to 75 percent of the basic county loan rate, has been implemented by the Secretary of Agriculture under section 407 of the Agricultural Act of 1949. Under that provision, feed assistance is authorized for the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep, and goats, and their offspring. The statute provides that feed assistance is to be made available only to persons who are unable to obtain sufficient feed for their livestock without undue financial hardship.

The bill would consolidate these two provisions and other provisions dealing with emergency livestock assistance. The bill would provide a consistent definition of livestock eligible for assistance with respect to the preservation of foundation herds and with respect to livestock producers who have suffered substantial losses in feed production. The bill also provides the Secretary with the discretion to make assistance available to livestock producers who do not produce feed and who may or may not have foundation herds to alleviate economic distress caused by a natural disaster, if the Secretary determines it is appropriate.

The various types of assistance provided for in title VI include emergency water assistance, the donation of feed owned by the Commodity Credit Corporation, and transportation assistance, both for feed and for livestock.

This assistance would be available to livestock producers to help make up for lost feed production or to help preserve foundation herds of livestock. The Secretary is also authorized to provide assistance to livestock producers for other proposes if the Secretary determines that it is necessary to alleviate a crisis caused by the livestock emergency.

The assistance programs authorized in the bill provide the Secretary of Agriculture with flexible, consistent means to respond to livestock emergencies. By providing for limitations on the amount of assistance a single person could receive under these provisions and limitations on the amount of transportation assistance available to producers, it is the intent of the Committee to make these programs readily available to a broader spectrum of needy producers than is currently the case and to more effectively channel this assistance to those producers who need it the most.

In addition to producers of meat producing animals, dairy producers are also suffering from the impacts of the drought. Dairy producers face dramatically increasing feed costs in the months ahead. These producers also face the prospect of a decrease in their level of price support in 1989, in the face of increasing input costs. Therefore, the bill does away with the scheduled 1989 reduction in the price support for milk in order to help dairy producers cope with the dramatic increase in feed prices.

DISASTER PAYMENTS TO PRODUCERS OF ANNUAL CROPS

Producers of program crops are being affected in two ways by the loss of production from the drought. First, their crop yields have been diminished leaving them with less to sell in the marketplace. Second, the higher price brought on by the reduced supplies will reduce any deficiency payments producers would have otherwise been eligible to receive. This could leave producers, particularly corn producers, with little or no crop revenue.

Previous natural disasters have also affected crop production and crop producer income. In crop year 1974, 1975, and 1980, disaster payments made up all or nearly all of government payments to producers. As recently as the 1986 crop year, payments were made to crop producers for losses suffered due to natural disaster. The disaster program enacted in 1986 (and amended in 1987) provided for an acreage diversion program applicable to producers of winter wheat who were prevented from planting due to dry weather and otherwise extended assistance to farmers who were adversely affected by natural disasters in 1986.

The bill provides for disaster payments to producers in a consistent and equitable manner to all crop producers based on 65 percent of producer price expectations at planting. Producers will be required to demonstrate at least a 35 percent yield loss before being eligible for these payments.

Corn, sorghum, barley, oat, wheat, rice and cotton producers who participated in the government price support program will receive 65 percent of the target price for the respective commodity on all bushels lost in excess of the 35 percent loss threshold.

In addition to disaster payments, these producers will not be required to repay advance deficiency payments made with respect to any decrease in production (up to 35 percent) below the farm program payment yield for the crop. The remainder of any advance deficiency payment received would be subject to refund. In no case will a producer be allowed to receive deficiency and disaster payments on the same bushel of lost yield.

Without a disaster payment program, it is possible that producers who suffer a total loss in production in 1988 will not receive any crop revenue. This bill will ensure that producers who do not produce a crop because of the 1988 drought still receive at least 45 percent of the gross returns they expected to receive when they planted their crops.

Producers of corn, sorghum, barley, oat, wheat, rice and cotton who did not participate in government price support programs will be eligible to receive disaster payments based on 65 percent of the

loan rate for the respective crop. The 35 percent yield loss trigger for receiving disaster payments will apply.

Those applying for disaster assistance who did not participate in the production adjustment program will not be eligible to receive payments on acreage planted or prevented planted in 1988 in excess of the greater of (1) the quantity actually planted for harvest in 1988, or (2) the quantity that was planted for harvest in 1987 (or prevented from being planted).

Peanuts, sugar and tobacco producers will also be eligible for assistance based on a payment rate of 65 percent of the loan or implied support level for each crop. A special payment rule is established for peanuts to account for quota and additional peanuts. As with all other crop categories, the 35 percent loss threshold will apply.

Producers of sugar, peanuts, and tobacco applying for disaster assistance will not be eligible to receive payments on acreage planted or prevented planted in 1988 in excess of the greater of (1) the quantity actually planted for harvest in 1988, or (2) the quantity that was planted for harvest in 1987 (or prevented from being planted).

Soybeans and nonprogram commodities will also be provided disaster payments. For these crops the disaster payment rate shall be 65 percent of the five year moving average of market prices, adjusted by removing the high and low prices. Disaster program payment yields for these crops will be determined by the Secretary based on county, state or area yields. In areas where soybean yields have been reduced consistently over the past three years due to drought, the Secretary shall make appropriate adjustment.

The same loss threshold and limitation on the quantity of acreage eligible for payments that applied to peanuts, tobacco and sugar will also apply to soybeans and other crops.

Nonprogram crops include almost all commercial crops grown for harvest.

Producers of nonprogram crops who have planted tree seedlings during the last five years will also be eligible for replacement assistance for the seedlings that have died because of the 1988 drought. Producers applying for this assistance will receive 65 percent of the replacement cost of the seedlings after demonstrating at least a 35 percent loss of seedlings.

Producers who receive payments for any of the commodities discussed will be subject to a $100,000 payment limitation. Further, producers with gross revenues in excess of $2,000,000 will not be eligible for assistance.

GENERAL PROVISIONS

Commodity stock adjustment

Total acreage planted to soybeans has fallen from 70.9 million acres in 1982 to only 58.5 million acres in 1988. At the same time, soybean plantings in South America have increased by more than 30 percent. Private forecasters now expect South American soybean plantings to increase by another 10–15 percent for the crop which will be planted in December 1988.

In the United States, producers of crops reported by target prices (wheat, feed grains, cotton, or rice) now face a permanent reduction in their base acreage if soybeans or sunflowers are planted on base acreage. This is one of the reasons soybean and sunflower plantings have fallen since 1982.

Stocks of soybeans have also fallen with reduced plantings and with reduced yields. The Department of Agriculture on July 12, 1988 estimated that stocks on hand at the end of the 1988 soybean marketing year would total 145 million bushels. This stock level, exactly half of the expected stock level of 290 million bushels for the 1987 marketing year, coincides with a forecasted 20 percent reduction in soybean exports in 1988. Prices for the 1988 marketing year are projected to average $6.75–$9.25/bushel, up 10–50 percent from 1987 levels.

Given the importance of soybean meal to the poultry, hog and cattle industries, and with the potential for tight supplies, the bill would authorize the Secretary of Agriculture to give producers the flexibility to plant soybeans on base acreage in order to preclude a potential market shortage for the 1989 crop year.

The bill would give the Secretary the discretion to allow producers to plant from 10–35 percent of their program crop base to soybeans or sunflowers for the 1989 and 1990 crops without loss of program crop acreage base. If a producer chooses to plant soybeans on the base acres, such soybeans would be eligible for price support loans, however the producer would receive none of the benefits related to the program crop on the acreage planted to soybeans or sunflowers.

The United States is also suffering from supply and demand imbalances with respect to oats. Currently, many users of oats are being forced to import oats due to a lack of supply for domestic food use. Under the bill, the Secretary could authorize producers, under certain conditions, to switch an acreage base designation from wheat, feed grains, cotton, or rice, to oats, thus allowing more oats to be planted in 1989 and 1990. It is the expectation of the Committee that this provision will cause a moderate increase in the available supply of oats in 1989 and 1990.

Credit assistance

A drought of the magnitude occurring in 1988 has the potential to economically devastate the farmers and rural areas directly affected by it. The drought threatens the ability of farmers to meet their financial obligations in 1988. The drought could reduce the expected gross revenues of many farming operations by 50 percent or more.

The continued economic viability of these farmers is crucial to the economic well being of the nation as a whole. It is important, therefore, that lenders practice forbearance with respect to farm loans made to farming operations that are suffering severe economic losses as a result of the 1988 drought.

The provisions of the bill designed to provide credit relief to farmers in drought areas encourage the Secretary of Agriculture and private lenders to use credit programs already authorized to help alleviate the sudden cash flow problem these farmers are facing.

The bill also provides for financial assistance to farmers by permitting State or local entities to set up programs to provide advance Conservation Reserve Program (CRP) rental payments to farmers participating in the CRP. Under such a program, States, upon the approval of the Secretary of Agriculture, could advance funds comparable to CRP rental payments to the CRP participant to help such farmers meet their current financial obligations. The farmer could repay this advance by giving the State a right to receive the annual CRP payments at the times they are ordinarily made available by the Department of Agriculture.

Conservation assistance

The drought conditions have also taken a devastating toll on wildlife and their habitat throughout the United States. The duck population stands at a record low level (a 50 percent reduction in 5 of 10 species) as a result of a lack of forage and nesting sites in the United States and Canada. Seventy percent of their expected nesting areas are dried up. Unless remedial action is taken, conditions for fowl and other wildlife will continue to deteriorate and many specie populations will decline even more than current levels.

Much of the grass planted to prevent soil erosion and sustain wildlife on acreage that has been placed in the CRP has not yet developed root systems capable of withstanding the type of stress caused by the 1988 drought. Tree seedlings, planted for cover on CRP acreage, have also been damaged and will need to be replanted.

Currently, farmers who cut hay during 1988 on acreage placed in the CRP to obtain feed for livestock are required to forego 25 percent of their 1988 annual rental payment, unless the farmer donated the hay to other producers. The bill would enable farmers to retain all or a portion of this 25 percent if the farmer performs, on a cost-share basis, certain conservation activities designed to enhance soil, water and wildlife conservation values on and in the vicinity of lands subject to such contract, in accordance with a conservation plan approved by the Soil Conservation Service.

Committee Consideration

S. 2631, to provide drought relief assistance to farmers and ranchers adversely affected by the 1988 drought, and for other purposes, was introduced by Senator Leahy and referred to the Committee on Agriculture, Nutrition, and Forestry on July 12, 1988.

The Committee held hearings on the bill on July 12, 1988. The Committee met on July 13 and 14, 1988, to mark up S. 2631. The Committee adopted 14 amendments to the bill.

S. 2631, as amended, was unanimously reported by the Committee by a voice vote on July 14, 1988. The bill has 46 cosponsors.

Rollcall Votes

In accordance with paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate, it is announced that no rollcall votes were taken with respect to Committee action on S. 2631.

SECTION-BY-SECTION ANALYSIS

TITLE I. ASSISTANCE FOR LIVESTOCK PRODUCERS

SEC. 101. ASSISTANCE FOR LIVESTOCK PRODUCERS

Section 101 establishes a comprehensive new livestock assistance program under the Agricultural Act of 1949, effective 15 days after the date of enactment of the bill. This new program would replace current Emergency Feed Programs and Emergency Feed Assistance Program and specifically authorize other forms of livestock assistance.

In General

Subsection (a) amends the Agricultural Act of 1949 to add at the end a new title VI—Emergency Livestock Feed Assistance Act of 1988. The provisions of that new title are as follows:

Section 601 provides that the title may be cited as the Emergency Livestock Feed Assistance Act of 1988.

Section 602 sets out certain definitions to be used in the title as follows:

(1) "Livestock producer" is defined as any established producer or husbander of livestock, or dairy producer, who is a citizen of, or legal resident alien in, the United States; or any farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production, dairy production, or husbandry. Further, to be considered to be a livestock producer for the purposes of receiving benefits under title VI, the person must be actively engaged in farming and must receive a substantial amount of total income from the production of grain or livestock, as determined by the Secretary of Agriculture.

(2) "Livestock" is defined as cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

(B) are purchased as part of a normal operation and not to obtain additional benefits under title VI.

(3) "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(4) "Feed" means any type of feed (including feed grain, mixed feed, liquid or dry supplemental feed, roughage, pasture, forage) that—

(A) best suits the livestock producer's operation; and

(B) is consistent with acceptable feed practices.

Emergency livestock assistance

Section 603 provides that the Secretary shall provide emergency livestock feed assistance under this title for the preservation and

maintenance of livestock in any State, county, or area of a State, where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster that adversely affects livestock or handling of livestock, the Secretary determines that a livestock emergency exists.

Determination of need for assistance

Section 604 sets forth the procedures whereby areas may be determined to be in need of assistance under title VI. Either a Governor or a county Agricultural Stabilization and Conservation Committee may submit requests for a determination by the Secretary that a livestock emergency exists in a specific area or the Secretary may consider an area for assistance on the Secretary's own initiative.

Section 604(c) provides that the Secretary shall act on requests for assistance submitted by a Governor or a county committee not later than 30 days after receipt of the request and shall notify the requesting party of the action to be taken.

Section 604(d) provides that producers in the counties that have already been opened up for the Emergency Feed Program and the Emergency Feed Assistance Program in 1988 would automatically be eligible to submit applications for assistance under the program established by title VI. Further, as soon as is practicable after this bill is enacted, the Secretary shall determine whether any of the assistance programs provided for in title VI should also be made available in such counties.

Eligible livestock producers

Section 605 sets forth eligibility criteria for livestock producers to obtain feed assistance under title VI. First, such producer must be located in an area in which the Secretary has determined that a livestock emergency exists.

If the livestock producer is located in such an area (or a contiguous area under section 612), such producer is eligible for feed assistance specified in section 606 as follows:

(1) assistance that is sufficient to offset a feed deficiency on the farm caused by a substantial loss in the farm's feed production normally fed to livestock on the farm as a result of the emergency if the producer does not have sufficient feed that has adequate nutritive value and that is suitable for such producer's livestock for the estimated duration of the emergency;

(2) assistance for the preservation and maintenance of foundation herds of livestock if the producer does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such livestock as a result of the emergency; and

(3) such other assistance as the Secretary, in the Secretary's discretion, determines necessary to alleviate a crisis caused by the livestock emergency.

Finally, the feed assistance made available under title VI because of a loss of feed production on the farm shall be designed to offset that feed loss, and assistance made available for the preservation and maintenance of foundation herds shall only be made

available with respect to the portion of a producer's livestock not normally fed with feed produced on the farm.

Section 605(b) provides that any producer located in an area that has been determined to be eligible for pre-existing emergency feed programs as a result of the 1988 drought prior to the effective date of this Act and who qualifies for assistance under such programs shall be eligible for assistance for such drought or related condition in accordance with paragraphs (1) and (2) above (or, at the producer's option, for assistance under such pre-existing programs).

Assistance programs

Section 606(a) lists the following assistance programs that may be made available by the Secretary as provided in section 605:

(1) The donation of commodities owned or controlled by the Commodity Credit Corporation that can be used for feed purposes to producers who are financially unable to purchase feed at market prices or to participate in any other program set forth in this subsection.

(2) The sale of CCC owned commodities that can be used for feed purposes at not less than 50 percent of average market price as determined by the Secretary. Generic commodity certificates may be used to purchase CCC feed grain under this program. Producers who utilize this program for 1988 may purchase CCC feed grain at 75 percent of the loan rate. (Secretary may make in-kind payments).

(3) Reimbursement of not to exceed 50 percent of transportation and handling expenses incurred by producers in connection with feed grain donations or sales under paragraph (1) or (2).

(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by farmers during the duration of the emergency. (Secretary may make in-kind payments).

(5) Hay transportation assistance of not to exceed 50 percent of the cost of transporting hay or silage purchased from a point of origin beyond the producers' normal trade area. Such transportation assistance may not exceed $50 per ton for hay or $12.50 per ton for silage and the quantity of hay may not exceed 20 pounds per day per animal (or a comparable amount of silage) or the lesser of the producer's feed loss or the quantity of additional feed needed for the duration of the livestock emergency.

(6) Livestock transportation assistance to and from available grazing locations and not to exceed 50 percent of the cost of such transportation. Such transportation assistance may not exceed $24 per head of eligible livestock and may not exceed the lesser of the value of the producer's feed loss or the value of additional feed needed for the duration of the livestock emergency.

Section 606(b) provides that if assistance is made available through the furnishing of feed grains to producers, the Secretary may provide for the furnishing of the feed grains through a dealer or manufacturer and the replacing of the feed grains so furnished from feed owned or controlled by the Commodity Credit Corporation.

Additional assistance

Section 607(a) provides that if the Secretary determines that the livestock emergency in an area also requires the provision of the assistance listed in section 607(b), the Secretary shall provide such assistance.

Section 607(b) lists certain special assistance that may be made available by the Secretary as follows:

(1) donating feed held by the Commodity Credit Corporation with respect to livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area;

(2) making emergency water assistance available to eligible farmers and ranchers under terms and conditions comparable to those provided for under the program designated ECP EC-6 by the Department of Agriculture, including practices and measures provided for in such program; and

(3) making Commodity Credit Corporation catalog commodities available to producers through the use of catalog lots of a size that is economically feasible for family farmers to obtain through the exchange of certificates.

Use of the Commodity Credit Corporation

Section 608 would require the Secretary to carry out the provisions of title VI through the use of the funds, facilities, and authorities of the Commodity Credit Corporation.

Payment limitation

Section 609(a) provides that for each declared livestock disaster, the total amount of benefits that a person receives under one or more of the programs established under this title may not exceed $50,000. In this context, a "benefit" received by a producer refers to the amount of financial and other assistance provided to the livestock producer by the government during the emergency that constitutes a governmental expenditure or net loss.

Section 609(b) provides that any person that has gross revenues in excess of $2,500,000 annually shall not be eligible for assistance under title VI.

Section 609(c) provides that each person (including in the case of a cooperative association of producers, each member of the association) otherwise eligible for livestock emergency benefits under title VI for the 1988 drought shall be subject to the combined payment and benefits limitation established under section 210(c) of the Drought Assistance Act of 1988 (a combined $100,000 limitation).

Section 609(d) provides that no person may receive assistance under title VI that is attributable to lost feed production due to the 1988 drought to the extent that such person receives a disaster payment under title II of the Drought Assistance Act of 1988 on such lost production.

Section 609(e) would require the Secretary to issue regulations—

(1) defining the term "person" in conformity, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

Regulations

Section 610 requires the Secretary to issue regulations to carry out title VI. The regulations must establish procedures to ensure that requests for assistance by a State, county, or area under section 604 and individual applications of livestock producers under section 605 and 612 for assistance are processed, and decisions made, as quickly as possible.

Penalties

Section 611 sets forth penalties applicable to persons who misuse any assistance provided to them under title VI. Producers who improperly dispose of feed provided to them under title VI shall be subject to a civil penalty equal to the market value of the feed involved and shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

Disaster emergency assistance

Section 612 would make assistance under title VI available to producers that conduct farming, ranching, or aquaculture operations in any country contiguous to a county where the Secretary has found that a livestock emergency exists or where the President has determined that a major disaster or emergency exists in accordance with the Disaster Relief Act of 1974 and who are otherwise eligible for assistance under title VI.

Section 612(b) would require the Secretary to accept applications for assistance from such producers at any time during the 8-month period beginning on—

(1) the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by the disaster or emergency; or

(2) the date the President makes the major disaster or emergency designation with respect to the disaster or emergency.

Conforming Amendments

Subsection (b) makes certain conforming amendments to current law as follows:

(1) the repeal of section 1105 of the Food and Agriculture Act of 1977, section 421 of the Agricultural Act of 1949, Public Law 86–299, and section 303 of the Dairy and Tobacco Adjustment Act of 1983; and

(2) in section 407 of the Agricultural Act of 1949, striking out "and may make feed owned or controlled by it" in the fifth sentence and all that follows through the period at the end of the sixth sentence and inserting in lieu thereof "and may donate or sell commodities in accordance with title VI.".

Effective Date

Subsection (c) provides that section 101 and the amendments made by section 101 shall become effective 15 days after the date of enactment of the bill.

SEC. 102. ASSISTANCE FOR DAIRY FARMERS

Section 102 would amend section 201(d)(1) of the Agricultural Act of 1949 to remove the authority of the Secretary to reduce the price support level for milk in 1989 by 50-cent per hundredweight from the 1988 support level.

TITLE II. DISASTER PAYMENTS

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR BASIC COMMODITIES

Disaster Payments

Subsection (a) would provide that, with respect to producers of the 1988 crop of wheat, feed grains, cotton, or rice who elected to participate in 1988 production adjustment programs, if the Secretary of Agriculture determines that because of drought or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than 65 percent of the farm program payment yield established by the Secretary for such crop multiplied by the acreage planted for harvest (or prevented from being planted) for such crop, the Secretary shall make disaster payments available to such producers.

The disaster payments shall be made at the rate of 65 percent of the 1988 target price for such crop such commodities on any deficiency in production on the farm greater than 35 percent for the crop. Disaster payments shall not be made available with respect to any acreage on the farm in excess of the permitted acreage for the farm for the commodity.

The total quantity on which deficiency payments would otherwise be payable to a producer on a farm for any crop shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under this Act.

Producers of wheat and feed grains who entered the %2 program after March 11, 1988, may elect to receive disaster payments under this Act in lieu of the anticipated %2 payment.

Advance Deficiency Payments

Subsection (b) provides that with respect to the 1988 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, producers who harvest less than 100 percent of their farm program payment yield will not be required to repay any advance deficiency payments made with respect to any portion of such deficiency in production up to 35 percent of the producers' farm program payment yield. The remainder of any advance deficiency payment received would be subject to refund.

Producers who were eligible to receive advance deficiency payments for the 1988 crops, but who did not do so, shall be given the opportunity to elect to receive advance deficiency payments for the 1988 crops as soon after the date of enactment of the bill as possible.

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR BASIC COMMODITIES

Disaster Payments

Subsection (a) provides that, with respect to producers of wheat, feed grains, cotton, and rice who elected not to participate in 1988 production adjustment programs established under the Agricultural Act of 1949, if the Secretary determines that because of drought or related condition in 1988 such producers suffer a loss in production of over 35 percent, the Secretary shall make disaster payments available to such producers. The disaster payments shall be made at the rate of 65 percent of the 1988 basic country loan rate for such crops (or a comparable price if there is not current basic country loan rate) on any deficiency in production for the crop on the farm greater than 35 percent for the crop.

Limitations

Subsection (b) provides that the Secretary shall provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting because of drought in 1988, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1987 less acreage actually planted in 1988. The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

The amount of payments made available to nonparticipants shall be reduced by a factor equal to the acreage reduction percentage established for the program crop under the Agricultural Act of 1949.

SEC. 203. PEANUTS, SUGAR, AND TOBACCO

Disaster Payments

Subsection (a) provides that, with respect to producers of the 1988 crops of sugar beets, sugar cane, tobacco and peanuts, if the Secretary determines that because of drought or related condition in 1988 such producers suffer a loss in production of over 35 percent, the Secretary shall make disaster payments available to such producers. The disaster payments shall be made available for any deficiency in production for the crop on the farm greater than 35 percent of the country average yield (or program yield in the case of peanuts and tobacco) established by the Secretary for such crop.

Payment Rate

Subsection (b) provides that the payment rate for these commodities shall be equal to 65 percent of—

(1) in the case of peanuts and tobacco, the basic country loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary; and

(2) in the case of sugar beets and sugarcane, a rate determined by the Secretary to be fair and reasonable in relation to

the level of price support that is established for the 1988 crop of sugar beets and sugarcane.

Limitations

Subsection (c) provides that the Secretary shall provide prevented planning credit with respect to acreage that producers on a farm were prevented from planting because of drought in 1988, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1987 less acreage actually planted in 1988. The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

Special Rules for Peanuts

Subsection (d) sets forth certain special rules for peanuts as follows:

(1) a deficiency in production of quota peanuts from a farm as otherwise determined under this section shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this provision shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

It is the intent of the Committee that, in the case of peanuts, the Secretary determines the 1988 program yield in accordance with the rules codified at 7 C.F.R. Part 729.

SEC. 204. SOYBEANS AND NONPROGRAM CROPS

Disaster Payments

Subsection (a) provides that, with respect to the 1988 crop of soybeans and nonprogram crops, if the Secretary determines that because of drought or related condition in 1988 producers of such crops suffer a loss in production of over 35 percent, the Secretary shall make disaster payments available to such producers. The disaster payments shall be made available for any deficiency in production for the crop on the farm greater than 35 percent of (1) with respect to soybeans, the State, area, or county average yield, adjusted for adverse weather conditions during the 3 previous crop years, or (2) with respect to nonprogram crops, the country or area average yield established by the Secretary for such crop.

Payment Rate

Subsection (b) provides that the disaster payments shall be made available at the rate of 65 percent of the average market price received by producers of such crops in 3 out of the last 5 years, dropping the high and low years, (as determined by the Secretary) on any deficiency in production on the farm below 65 percent for the crop.

Limitations

Subsection (c) provides that the Secretary shall provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting because of drought in 1988, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1987 less acreage actually planted in 1988. The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

Tree Seedlings

Subsection (d) provides that, if the Secretary determines that producers of nonprogram crops that have planted tree seedlings during the 5-year period ending on the date of enactment of the bill have suffered in excess of a 35 percent loss of such seedlings as a result of drought or related condition in 1988, the Secretary shall make disaster payments available to such producers with respect to any lost seedlings in excess of 35 percent of the seedlings planted during such period. It is the intent of the Committee that this subsection not apply to trees used for ornamental purposes.

Payments made under this subsection shall be made available at a rate of 65 percent of the replacement cost of the seedlings, as determined by the Secretary.

Definitions

Subsection (e) sets forth the definition of "nonprogram crop" as follows:

(1) all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1988; and

(2) other crops for which Federal Crop Insurance is not available or was not purchased if—

(A) in accordance with regulations issued by the Secretary, producers of such crops can provide satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years, except that if such data does not exist for any of the 3 preceding crop years the Secretary shall use county average crop yield data; and

(B) such producers provide satisfactory evidence of 1988 crop year losses resulting from drought or related condition in 1988 exceeding 35 percent of the crop yield established in paragraph (A) above,

except the term "nonprogram crop" shall not include a crop covered in sections 201 through 203 of the bill or a crop of soybeans.

SEC. 205. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS

Section 205 provides that payments determined in accordance with this bill with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of the crop of a commodity on the farm and the disaster payment made available for the commodity exceeds the amount determined by multiplying—

(1) 100 percent of the commodity yield used for the calculation of payments made under title II of the bill by

(2) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; by

(3) with respect to—

(i) Producers who participated in the production adjustment programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice, the established price for the 1988 crops of such commodities;

(ii) Producers who did not participate in production adjustment programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice, and producers of sugarcane, sugar beets, peanuts, and tobacco, the loan level established for the 1988 crops of such commodities; and

(iii) Producers of soybeans and any nonprogram crop, the average market price received by producers of such crops in 3 out of the last 5 years, dropping the high and low years.

SEC. 206. TRANSFER OF FUNDS

Section 206 would authorize the Secretary, for fiscal year 1988 to transfer to the Agricultural Stabilization and Conservation Service from funds made available to the Commodity Credit Corporation such sums as may be necessary to administer this title, including salaries and other expenses.

SEC. 207. CROPS HARVESTED FOR FORAGE USES

Section 207 provides that, not later than 15 days after the date of enactment of this Act, the Secretary shall announce (through press release or otherwise) the terms and conditions by which producers may prove their yield on crops that will be harvested for silage or other forage uses.

SEC. 208. TIMING AND MANNER OF DISASTER PAYMENTS

Timing

Subsection (a) provides that the Secretary shall make disaster payments available under title II to producers as soon as practicable after enactment of the bill.

Manner of Payments

Subsection (b) provides that disaster payments under this Act may be made available in cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 209. USE OF COMMODITY CREDIT CORPORATION

Section 209 provides that the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out the provisions of title II of the bill.

SEC. 210. PAYMENT LIMITATIONS

Disaster Payments

Subsection (a) provides that the total amount of benefits received under title II for distress caused by the 1988 drought shall not exceed $100,000 per person.

Limitation Based on Gross Revenue

Subsection (b) provides that any person that has gross revenues in excess of $2,000,000 annually shall not be eligible to receive any crop disaster benefit payments under title II.

Combined Limitation

Subsection (c) provides that a person may not receive over $100,000 in disaster benefits provided under this Act (including both payments for crop losses and livestock disaster assistance). A person who might be subject to this limit may choose whether to receive benefits in the form of disaster payments or in the form of livestock assistance.

Relationship to Livestock Emergency Benefits

Subsection (d) provides that no person may receive disaster payments attributable to lost production of a commodity due to the drought or related condition in 1988 under title II to the extent that such person receives a livestock emergency benefit on such lost production under title VI of the Agricultural Act of 1949 (as added by this bill).

Definition of Person

Subsection (e) would require the Secretary to issue regulations—

(1) defining the term "person" in conformity, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

Regulations

Subsection (f) provides that the Secretary shall issue regulations to equitably and efficiently implement the requirements of this provision.

TITLE III. GENERAL PROVISIONS

Subtitle A—Commodity Stock Adjustment

SEC. 301. SOYBEANS, SUNFLOWERS, AND COTTONSEED AND SUNFLOWER SEED

Planting of Soybeans and Sunflowers on Permitted Acres

Subsection (a) would amend section 504 of the Agricultural Act of 1949 to provide that, with respect to the 1989 and 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, if an acreage limitation program is in effect for any of such crops, the Secretary may permit producers to plant soybeans and sunflowers on at least 10 percent but not more than 35 percent of the permitted acreage for the crop, as determined by the Secretary, without loss of base history.

Not later than November 15, 1988, and not later than March 1, 1989, with respect to the 1989 crops, and not earlier than November 15, 1989, and not later than March 1, 1990, with respect to the 1990 crops, the Secretary shall submit to the House and Senate Agriculture Committees a statement setting forth the reasons for permitting or not permitting producers to plant soybeans or sunflowers on permitted acreage under this provision. This statement shall include—

(A) the estimated impact such action may have on soybeans, sunflowers, corn, wheat, upland cotton, extra long staple cotton, and rice;

(B) an economic evaluation of market effects due to permitting or not permitting the plantings of soybeans or sunflowers on permitted acreage;

(C) an estimate of foreign production of oilseeds, and the impact of such plantings on domestic oilseed markets; and

(D) such other factors as the Secretary considers appropriate.

Soybean Marketing Loans

Subsection (b) provides that not earlier than February 1, 1989, and not later than March 1, 1989, with respect to the 1989 crop of soybeans, and not later than September 1, 1989, with respect to the 1990 crop of soybeans, the Secretary of Agriculture shall submit to the House and Senate Agriculture Committees a statement setting forth the reasons for implementing or not implementing the soybean marketing loan program authorized unded section 201(i)(3) of the Agricultural Act of 1949.

This statement shall include—

(1) an economic evaluation of current soybean markets, foreign and domestic;

(2) the current foreign soybean production statistics;

(3) the United States soybean export market situation and outlook;

(4) the computation of the prevailing world market price for soybeans, as described in section 201(i)(3)(B) of the Agricultural Act of 1949;

(5) the fiscal impact of the implementation of the marketing loan for soybeans; and

(6) such other factors as the Secretary considers appropriate.

Export Assistance for Cottonseed and Sunflower Seed

Subsection (c) provides that if the Secretary of Agriculture determines that the price of cottonseed or sunflower seed oil is adversely affected by the increased planting flexibility, provided in subsection (a), the Secretary shall use existing export assistance programs to provide export and other appropriate assistance programs to provide export and other appropriate assistance for cottonseed and sunflower seed, and the products thereof, to help offset such adverse effects.

SEC. 302. OATS

Farm Acreage Base

Subsection (a) amends section 503 of the Agricultural Act of 1949 to provide that, with respect to the 1989 and 1990 crops, if the feed grain acreage limitation percentage established for the 1989 or 1990 crop of feed grains under section 105C(f) of the Agricultural Act of 1949 is less than 12.5 percent of the crop acreage base, the Secretary shall allow producers to designate any portion of the farm acreage base (excluding soybeans) as oats base.

Such designation shall not result in an overall increase in the farm acreage base (excluding soybeans) and must be offset by an equivalent downward adjustment in one or more other crop acreage bases established for the farm for such crop year.

Sense of Congress

Subsection (b) provides that it is the Sense of Congress that, with respect to the 1989 and 1990 crops of feed grains, if the feed grain acreage limitation percentage is established at greater than 12.5 percent of the crop acreage base, the Secretary is encouraged to establish the lowest possible acreage limitation requirement for oats under 105C(f) of the Agricultural Act of 1949 if market imbalances for barley and oats exist.

SEC. 303. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS

Repayment of Loans

Subsection (a) provides that, effective for the 1988 marketing year for wheat and feed grains, if the trigger level in the Farmer Owned Reserve (section 110 of the Agricultural Act of 1949) has been met at any time during such marketing year, producers may repay loans made under section 110(b) of the Agricultural Act of 1949 without payment of additional interest or other charged provided for under clause (4) of the third sentence of section 110(b) of such Act, regardless of the market price.

Storage Payments and Interest

Subsection (b) provides that if, during the 1988 marketing year, the Secretary allows producers to place wheat or feed grains into the farmer owned reserve established under section 110 of the Agricultural Act of 1949, no storage payments shall be made and interest charges shall not be forgiven for the remainder of the 1988

marketing year on quantities of such commodity that the producers place into the reserve during such marketing year.

Subtitle B—Disaster Credit and Credit Forbearance

SEC. 311. FMHA OPERATING LOANS

Direct Loans

Subsection (a) provides that the Secretary of Agriculture shall ensure, to the maximum extent practicable, that direct operating loans made or insured by the Farmers Home Administration for 1989 crop production are made available to farmers suffering major losses due to the 1988 drought, as authorized in existing law, to help such farmers stay in business.

Guaranteed Loans

Subsection (b) provides that the Secretary shall make available in fiscal year 1989 guarantees for operating loans as authorized under subtitle B of the Consolidated Farm and Rural Development Act to commercial or cooperative lenders, in addition to the other purposes for which guarantees may be provided for such loans, to refinance and reamortize 1988 operating debt of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of the 1988 drought.

Each such guaranteed loan shall contain terms and conditions governing reamortization, with respect to the 1988 operating debt of the farmer or rancher, that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit, while repaying the guaranteed loan, as determined by the Secretary.

SEC. 312. FORBEARANCE AND RESTRUCTURING OF FARM LOANS

Section 312 provides that it is the sense of Congress that the Secretary of Agriculture should—

(1) Exercise forbearance in the collection of interest and principle on outstanding Farmers Home Administration direct loans for producers affected by drought in 1988;

(2) Expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 and similar provisions of law for farmers and ranchers hurt by the 1988 drought; and

(3) Encourage commercial lenders participating in guaranteed farmer lending programs to exercise forbearance before declaring such loans in default.

Subtitle C—Conservation and Water Assistance

SEC. 321. CONSERVATION AND WILDLIFE ENHANCEMENT

In General

Subsection (a) provides that, with respect to any producer who harvested hay from land subject to a conservation reserve program contract during 1988 as authorized by the Secretary of Agriculture, the Secretary shall not reduce such producer's rental payments as the result of such harvesting to the extent that the owner or opera-

tor shares the cost of carrying out conservation practices in order to enhance soil, water and wildlife conservation values on and in the vicinity of lands subject to such contract in accordance with a conservation plan approved by the Soil Conservation Service in consultation with the appropriate State and Federal agencies.

Conservation Practices

Subsection (b) provides that for the purposes of this section, the term "conservation practices" includes—

(1) Establishment of permanent shelterbelts and windbreaks;
(2) Restoration of wetlands;
(3) Establishment of wildlife food plots; and
(4) Planting of trees.

SEC. 322. WATER MANAGEMENT FOR RURAL AREAS

In General

Subsection (a) provides that the Secretary of Agriculture is authorized to conduct research and demonstration projects, provide technical assistance and extension services, make grants, make loans, loan guarantees, and provide other forms of assistance for the purpose of helping rural areas make better and more efficient use of water resources to alleviate problems arising in such areas from droughts or lack of water.

Activities

Subsection (b) provides that the Secretary is authorized to provide assistance for the promotion or establishment of irrigation, watersheds, and other water management and drought management activities, including water transmissions, application, and activation.

Cooperation

Subsection (c) provides that in taking action in accordance with this section, the Secretary—

(1) should address problems of water management existing in rural areas;

(2) may carry out these actions independently or in cooperation with Federal, State, and public or private entities and agencies; and

(3) shall cooperate with cooperatives, public or private organizations, confederations, and other entities to carry out projects authorized in accordance with this section.

Regulations

Subsection (d) would require the Secretary to issue regulations to carry out this provision that—

(1) specify the terms and conditions that such entities described above must meet in order to participate in programs carried out under this section;

(2) establish a procedure under which such entities may apply for assistance under this section; and

(3) foster cooperation between such entities and other Federal, State, or local agencies for the purpose of carrying out this section.

Definition

Subsection (e) would define the term "university" to mean—

(1) a land grant university established under the First Morrill Act;

(2) a land grant university established under the Second Morrill Act;

(3) the Tuskegee University; and

(4) any other support research organization.

Funding

Subsection (f) provides there are authorized to be appropriated in each fiscal year such sums as are necessary to carry out this section. The Secretary is authorized to accept funds from non-Federal sources to carry out this section.

No Effect on Cost Sharing

Subsection (g) provides that nothing in this section shall be construed to waive any cost sharing requirements imposed under any other provision of law.

The authorization contained in this section is general, to include all aspects of water management in rural areas, including the protection of streams and other water from agricultural and animal waste, because different rural localities have different water management problems.

It is the intent of the Committee that entities described in this section of the bill cooperate with each other, with local and State governments and agencies, and the Federal government (including agencies in addition to the Department of Agriculture) to identify water-related problems, develop plans to alleviate such problems, and coordinate the use of assistance provided by the Secretary of Agriculture under this section. The Secretary is encouraged to use loan programs conducted by the Farmers Home Administration and other lending authorities (including the Banks for Cooperatives) as authorized in existing law to cary out this provision.

The regulations issued by the Secretary under this section should specify the authorities needed by entities applying for assistance under this section, including whether such entities must be authorized to borrow money, mortgage property, issue bonds or other instruments of credit, and receive grants from other units of government or private sources.

Subtitle D—Rural Businesses

SEC. 331. BUSINESS AND INDUSTRIAL LOANS

Section 331 provides that the Secretary of Agriculture shall make available in fiscal year 1989, to the maximum extent practicable, rural industrialization loans or loan guarantees, as authorized under section 310B of the Consolidated Farm and Rural Development Act to assist rural businesses directly and adversely affected by the 1988 drought. Any loans made available under this sec-

tion must otherwise meet the terms and conditions relating to eligibility established under the Business and Industrial Loan program to prevent the loss of, or create, rural employment opportunities.

SEC. 332. SURVEY OF AGRICULTURE-RELATED RURAL BUSINESSES AND ENTERPRISES

Section 332 provides that not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a survey of rural agribusinesses to determine the extent that such businesses are being adversely affected by the 1988 drought and submit a report describing the results of such survey the House and Senate Agriculture Committees.

Subtitle E—Miscellaneous

SEC. 341. SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM

Section 341 of the bill would amend section 1234(f) of the Food Security Act of 1985 to provide that the provisions of that subsection and of section 1305(d) of the Agricultural Reconciliation Act of 1987 that limit payments to any person shall not be applicable to payments received by a State or local governmental entity in connection with agreements entered into under a special conservation reserve enhancement program carried out by such entity. However, any such conservation reserve enhancement program must first be approved by the Secretary of Agriculture.

SEC. 342. DROUGHT RELIEF CONTINGENCY PLAN

Section 342 of the bill would require the Secretary of Agriculture, not later than 30 days after the date of enactment of the bill, to prepare and submit to the House and Senate Agriculture Committees a report describing a Federal drought disaster contingency plan to respond to agricultural disasters in each of the 1988 through 1990 crop years. In preparing such plan, the Secretary should evaluate the various alternatives available for the use of agricultural set-aside acreage, conservation reserve acreage, conservation use acreage, and any other land held in inventory by the Farmers Home Administration.

SEC. 343. SALE OF CORN TO ETHANOL PRODUCERS

Subsection (a) provides that if, during any month beginning after July 31, 1988, the average corn price (as determined by the Secretary of Agriculture) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980), the Secretary shall make approximately 16 million bushels of Commodity Credit Corporation corn per month available for sale to domestic producers of ethanol at a reduced price.

Subsection (b) provides that such corn shall be sold at a price that is not more than the fuel conversion price but not less than 110 percent of the basic county loan rate for corn (prior to any adjustment under the "Findley" provisions of the Agricultural Act of 1949 (sec. 105C(a)(3)).

Subsection (c) provides that the quantity of corn sold to any ethanol producer under this section shall not exceed 2 million bushels per month.

Subsection (d) provides that the "average corn price" shall be determined by the Secretary and shall be based on the average corn price in markets used for determinations made under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (the Farmer Owned Reserve).

Subsection (e) provides that domestic producers of ethanol fuel purchasing corn under this provision may not resell such corn and must make available a quantity of feed byproducts equal to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and under terms and conditions approved by the Secretary.

Subsection (f) provides that the Secretary may terminate this program if it is determined that—

(1) the program isn't necessary to maintain the economic viability of the ethanol industry; or

(2) a sufficient supply of corn would otherwise not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period.

SEC. 344. SENSE OF CONGRESS REGARDING AGRICULTURAL EXPORTS

Subsection (a) sets forth certain findings of Congress, including findings that—

(1) foreign trade is highly important to the domestic agricultural industry;

(2) the Food Security Act of 1985 created several programs to help enhance exports of U.S. commodities and products, and to help restore the U.S. share of international agricultural markets;

(3) those programs have been successful in achieving those purposes and have resulted in the increased exportation of domestic agricultural commodities;

(4) it is important that the United States be perceived as being a reliable supplier of agricultural commodities; and

(5) any action taken by the President or Congress that would indicate a scaling back of the commitment to expand agricultural exports would be harmful to the agricultural interests and general economy of the United States.

Subsection (b) restates the policy of Congress established in section 1133 of the Food Security Act of 1985. Subsection (b) provides that it is the Sense of Congress that there should be no embargo on exports of domestic agricultural commodities and the products thereof.

SEC. 345. SENSE OF THE SENATE REGARDING EXPEDITIOUS ACTION ON TAX LEGISLATION AFFECTING FARMERS

Section 345 provides that it is the sense of the Senate that Congress act expeditiously in enacting legislation that would exempt farmers from the federal excise tax on diesel fuel that is to be used for farming purposes, and would repeal the application of the ac-

counting capitalization rules under section 263A of the Internal Revenue Code of 1986 to farm animals (commonly referred to as the "heifer tax").

CBO Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 25, 1988.

Hon. Patrick J. Leahy,
Chairman, Committee on Agriculture, Nutrition, and Forestry,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office (CBO) has prepared a preliminary estimate of the cost of S. 2631, the Drought Assistance Act of 1988, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry, July 14, 1988. Relative to our new summer baseline, which has not yet been completed, we estimate that S. 2631 would add $4.9 billion to $5.7 billion to outlays for fiscal year 1989, depending on the intent of the livestock assistance provisions. (The summer baseline will be completed on August 15, 1988.) We have not yet prepared an estimate of the cost of this bill relative to the budget resolution baseline; because that baseline assumes normal weather, outlays from this bill would be small.

CBO's preliminary summer baseline shows a reduction in outlays for fiscal year 1989 of $8.7 billion for the Commodity Credit Corporation (CCC) and of $7.5 billion for total outlays for function 350, relative to the budget resolution baseline. Added outlays for the Federal Crop Insurance Corporation ($0.6 billion) and the Agricultural Credit Insurance Fund ($0.7 billion) partially offset the reduction in CCC outlays.

Our projections are particularly uncertain right now, because the full impact of the drought is unknown and will depend on weather conditions over the next several weeks. In addition, little information is available as to the distribution of crop damage by farmers and among crops, both of which affect the estimated costs.

PRELIMINARY ESTIMATE OF THE COST OF S. 2631 RELATIVE TO THE SUMMER 1988 CBO BASELINE

[Budget authority and outlays; by fiscal year, in billions of dollars]

	1989	1990	1991	1992	1993
DIRECT SPENDING					
Sec. 201–202 Program Crop Disaster Payments	2.3	0	0	0	0
Sec. 203–204 Nonprogram Crop Disaster Payments	1.6	0	0	0	0
Sec. 101 Livestock Assistance Program	0.7–1.5	0	0	0	0
Sec. 102 Dairy	.2	.2	.1	(1)	0
Sec. 204 Seeding	.1	0	0	0	0
Sec. 343 Ethanol	.1	0	0	0	0
Sec 303 Producer Reserve Program	(1)	0	0	0	0
Total costs	4.9–5.7	.2	.1	1	0

1 Less than $50 million.

The bill provides for disaster payments for both program crops (i.e., those for which there are target prices) and nonprogram crops

and for both program participants and nonparticipants. Producers of all commercially-grown crops would be eligible for disaster payments on 1988 crop losses exceeding 35 percent of the calculated program yield or equivalent yield. Payments are to be made on the lost production exceeding the 35 percent threshold. Adjustments would be made in payments for required program acreage reduction for nonparticipants and for advanced deficiency payments already received by participants.

Most of the estimated $2.3 billion cost for the program disaster payments in 1989 is for drought-related yield losses in corn. Even though crop damage from the drought to spring wheat is extensive, that class represents less than one-fourth of the total wheat crop.

For the nonprogram crops the estimated $1.6 billion in 1989 disaster payments would be mostly for hay and soybean producers. These estimates were developed by estimating both the reduced production by crop in major states and the distribution of loss by farms. The projections of crop losses are very uncertain; final results will not be known for several months and weather during the remainder of the summer will be the major factor.

The bill provides that the government shall pay part of the cost of purchased feeds for livestock feeders with crop losses or economic hardship. It also provides for direct CCC sales of grain from its inventory to such livestock feeders at below-market prices. We have estimated that the livestock assistance provisions of this bill would cost $0.7 billion to $1.5 billion in 1989, in addition to the roughly $1 billion assumed in the summer baseline for the program currently being run by the U.S. Department of Agriculture. The bill language extends coverage under the present program to include livestock producers who do not grow their own feed. We are uncertain as to whether the extended assistance is limited to breeding herds and dairy cattle, or to all animals. If additional assistance is limited to breeding herds and dairy cattle, thereby excluding poultry operations and feedlots, the 1989 costs are estimated to be $0.7 billion; these costs would rise to $1.5 billion with unlimited eligibility.

Other provisions with outlay effects include the dairy, seedlings, and ethanol provisions. The bill would preclude the expected reduction in the dairy support price of $0.50 per hundredweight for calendar year 1989, which we estimate would increase outlays by $170 million in 1989 and by another $310 million over the 1990–1992 period. The bill calls for spending to replace tree seedlings destroyed by the drought. We have estimated the cost of this provision to be $100 million in 1989, but its effects are very uncertain because fruit trees, Christmas trees, commercial lumber, and other categories may qualify and the extent of drought damage is unknown. The ethanol provision allows sales of corn to ethanol producers at a discount from the CCC inventory, thereby reducing sales proceeds by an estimated $70 million in 1989.

Other bill provisions are estimated to result in little or no cost. The Secretary of Agriculture already has authority to take the actions authorized in the credit provisions, though he is urged to use forbearance in loan foreclosures. The provision on the farmer-owned reserve is estimated to have a small impact on repayments, allowing savings of about $5 million from a reduction in acquisition

costs. The provision allowing soybeans to be planted on program base acreage is discretionary and is assumed not to be used.

We will provide a final estimate for this bill when the summer baseline is completed.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Eileen Manfredi and Andrew Morton, who can be reached at 226–2860.

Sincerely,

JAMES L. BLUM,
Acting Director.

ADMINISTRATION VIEWS

THE WHITE HOUSE,
Washington, July 25, 1988.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I appreciate the bipartisan, cooperative spirit with which the congressional Agriculture Committees have consulted the Administration in developing drought relief legislation.

As I told you in the Oval Office and as I told farm leaders on July 13, I am committed to taking whatever actions are necessary to protect America's farmers from excessive losses during this drought. I also set out my five objectives for drought relief legislation:

—First, relief should go to those who need it most. Creating windfalls for some will mean less for the truly deserving.

—Second, many of our farmers purchased Federal crop insurance, a sound business decision. They should not be penalized relative to farmers who did not act with such prudence.

—Third, this legislation should not force farmers to do unreasonable things. No program should, for example, include any incentive for a farmer to plow under his crops.

—Fourth, drought relief spending has to be considered in the context of our efforts to reduce the Federal deficit, and according to the November 1987 bipartisan budget agreement that we reached with Congress. To put it very simply, we must not bust the budget. The automatic budget sequestration cuts that overspending triggers would take back from farmers with one hand what we are providing in drought relief with the other.

—And finally, this humanitarian assistance should not be used as a means to other ends. Extraneous matters, such as rewriting the existing farm bill, will only deter our efforts to provide this much-needed aid.

I am concerned that, due to the undeniable pressure to produce a bill as quickly as possible, some provisions were incorporated in the current House and Senate versions of the drought bill (H.R. 5015/S. 2631) without adequate review. Consequently, each version of the bill contains features that are inconsistent with the drought relief objectives I have set forth.

We hope that the Congress shares our drought relief objectives and will continue to work with the Administration to enact them promptly into law.

Sincerely,

RONALD REAGAN.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee made the following evaluation of the regulatory impact which would be incurred in carrying out S. 2631.

The bill creates new authorities and programs. Under the bill, the Secretary of Agriculture is required to make disaster payments to producers of commodities who have been adversely affected by the drought in 1988. The bill also would consolidate and revise authorities concerning emergency livestock feed assistance programs.

The bill would create some additional regulatory requirements, particularly with respect to the establishment of regulations to carry out the emergency livestock feed assistance programs authorized in the bill and with respect to the implementation of the disaster payment provisions in the bill.

The bill will result in some additional paperwork or recordkeeping requirements. The bill provides for the Secretary of Agriculture to submit several reports to Congress concerning the impact of the drought of 1988 on rural agribusinesses, the establishment of drought contingency plans, and determinations of the Secretary with respect to the 1989 and 1990 soybean program.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

AGRICULTURAL ACT OF 1949

TITLE I—BASIC AGRICULTURAL COMMODITIES

* * * * * * *

[PRICE SUPPORT LEVELS FOR DESIGNATED NONBASIC AGRICULTURAL COMMODITIES]

SEC. 201. [(7 U.S.C. 1446)] The Secretary is authorized and directed to make available (without regard to the provisions of title III) price support to producers for tung nuts, soybeans, sunflower seeds, honey, milk, sugar beets, and sugarcane as follows:

[(a) * * *]

(b)(1) For each of the 1986 through 1990 crops of honey, the price of honey shall be supported through loans, purchases, or other operations as follows:

(A) For the 1986 crop, the loan and purchase level for honey shall be 64 cents per pound.

(B) For the 1987 crop, the loan and purchase level for honey shall be 63 cents per pound.

(C) For each of the 1988, 1989, and 1990 crops the loan and purchase level for honey shall be the same as the level established for the preceding crop year reduced by 5 percent, except that such level may not be less than an amount equal to 75 percent of the simple average price received by producers of honey in the 5 preceding crop years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(D) Notwithstanding the foregoing provisions of this paragraph, effective for each of the 1987 through 1990 crops, the loan and purchase level for honey that would otherwise apply under subparagraphs (B) and (C), without regard to this subparagraph, shall be reduced for loans and purchases made after the date of the enactment of this subparagraph [December 22, 1987] by 2 cents per pound for the 1987 crop, ¾ cents per pound for the 1988 crop, ½ cent per pound for the 1989 crop, and ¼ cent per pound for the 1990 crop.

(2) The Secretary may permit a producer to repay a loan made to the producer under this subsection for a crop at a level that is the lesser of—

(A) the loan level determined for such crop; or

(B) such level as the Secretary determines will—

(i) minimize the number of loan forfeitures;

(ii) not result in excessive total stocks of honey;

(iii) reduce the costs incurred by the Federal Government in storing honey; and

(iv) maintain the competitiveness of honey in domestic and export markets.

(3)(A) If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this subsection, such person shall, in addition to any other penalties or sanctions prescribed by law, be ineligible for a loan, purchase, or payment under this subsection for the 3 crop years succeeding such determination.

(B) For purposes of subparagraph (A), honey shall be considered adulterated if—

(i) any substance has been substituted wholly or in part for such honey;

(ii) such honey contains a poisonous or deleterious substance that may render such honey injurious to health, except that in any case in which such substance is not added to such honey, such honey shall not be considered adulterated if the quantity of such substance in or on such honey does not ordinarily render it injurious to health; or

(iii) such honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.

(c) Except as provided in subsection (d), the price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 percentum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to

maintain productive capacity sufficient to meet anticipated future needs. Such price support shall be provided through purchases of milk and the products of milk.

(d) Notwithstanding any other provision of law—

(1)(A) During the period beginning on January 1, 1986, and ending on December 31, 1990, the price of milk, shall be supported as provided in this subsection.

(B) During the period beginning on January 1, 1986, and ending on December 31, 1986, the price of milk shall be supported at a rate equal to $11.60 per hundredweight for milk containing 3.67 percent milkfat.

(C)(i) During the period beginning on January 1, 1987, and ending on September 30, 1987, the price of milk shall be supported at a rate equal to $11.35 per hundredweight for milk containing 3.67 milkfat.

(ii) Except as provided in subparagraph (D), during the period beginning on October 1, 1987, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to $11.10 per hundredweight for milk containing 3.67 percent milkfat.

(D)(i) Subject to clause (ii), [if for any of the calendar years 1988, 1989, and 1990], *if for each of the calendar years 1988 and 1990* the level of purchases of milk and the products of milk under this subsection (less sales under section 407 for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will exceed 5,000,000,000 pounds (milk equivalent), on January 1 of such calendar year, the Secretary shall reduce by 50 cents the rate of price support for milk as in effect on such date.

(ii) The rate of price support for milk may not be reduced under clause (i) unless—

(I) the milk production termination program under paragraph (3) achieved a reduction in the production of milk by participants in the program of at least 12,000,000,000 pounds during the 18 months of the program; or

(II) the Secretary submits to Congress a certification, including a statement of facts in support of the certification of the Secretary, that reasonable contact offers were extended by the Secretary under such program but such offers were not accepted by a sufficient number of producers making reasonable bids for contracts to achieve such a reduction in production.

* * * * * * *

TITLE IV—MISCELLANEOUS

[PRICE SUPPORT—SOURCE]

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[RESTRICTIONS ON SALES BY COMMODITY CREDIT CORPORATION]

SEC. 407. [(7 U.S.C. 1427)] The Commodity Credit Corporation may sell any farm commodity owned or controlled by it at any price not prohibited by this section. In determining sales policies

for basic agricultural commodities or storable nonbasic commodities, the Corporation should give consideration to the establishing of such policies with respect to prices, terms, and conditions as it determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop. The Corporation shall not sell any basic agricultural commodity or storage nonbasic commodity at less than 5 per centum above the current support price for such commodity, plus reasonable carrying charges: *Provided,* That effective with the beginning of the marketing year for the 1961 crop, the Corporation shall not sell any upland or extra long staple cotton for unrestricted use at less than 15 per centum above the current support price for cotton plus reasonable carrying charges, except that the corporation may, in an orderly manner and so as not to affect market prices unduly, sell for unrestricted use at the market price at the time of sale a number of bales of cotton equal to the number of bales by which the national marketing quota for such marketing year is reduced below the estimated domestic consumption and exports for such marketing year pursuant to the provisions of section 342 of the Agricultural Adjustment Act of 1938, as amended [(7 U.S.C. 1342)]: *Provided further,* That beginning August 1, 1964, the Commodity Credit Corporation may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 103(a) plus reasonable carrying charges: *Provided,* That, notwithstanding any other provision of law, the Corporation may not sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye, respectively, at less (A) 115 percent of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, or (B) if the Secretary permits the repayment of loans made for a crop of the commodity at a rate that is less than the loan level determined for such crop, 115 percent of the average loan repayment rate that is determined for such crop during the period of such loans. The foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts and oilseeds for the extraction of oil: (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; (E) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. Notwithstanding the foregoing, the Corporation, on such terms and conditions as the Secretary may deem in the public interest, may make available any farm commodity or product thereof owned or controlled by it for use in relieving distress (1) in any area in the United States including the Virgin Islands declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (2) in connection with any major disaster determined

by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855) [and may make feed owned or controlled by it available at any price not less than 75 per centum of the current basic county loan rate (or a comparable price if there is no current basic county loan rate) for assistance in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep, and goats, and their offspring, in any area of the United States including the Virgin Islands where, because of flood, drought, fire, hurricane, earthquake, storm, disease, insect infestation, or other catastrophe in such aras, the Secretary determines that an emergency exists which warrants such assistance, such feed to be made available only to persons who do not have, and are unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such livestock: *Provided,* That the Secretary may provide for the furnishing of feed or mixed feed, in accordance with regulations prescribed by him, to such persons by feed dealers under an arrangement whereby the feed grains (or other feed being sold by the Corporation) in the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons at a price determined as provided above. Notwithstanding the foregoing provisions of this section relating to the authority of the Commodity Credit Corporation to make available to certain persons in certain areas during emergencies feed for livestock, the Commodity Credit Corporation (1) may make sure feed available to such persons in areas in which feed grains are normally produced and normally available for feed purposes, but in which they are unavailable because of a catastrophe described in the fourth sentence of this section, (2) may make such feed available to such persons through feed dealers in the areas, (3) shall make such feed available at a price not less than the price prescribed in the fourth sentence of this section, and (4) shall bear any expenses incurred in connection with making such feed available to such persons under this sentence, including transportation and handling costs.] *and may donate or sell commodities in accordance with title VI.* Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making such commodity available beyond the cost of the commodities to the Corporation in store and the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area. Nor shall the foregoing restrictions apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the Corporation's operations because of the small quantities involved, or because of age, location or questionable continued storability, but such sales shall be offset by such purchases of commodities as the Corporation determines are necessary to prevent such sales from substantially impairing any price-support program or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for such commodities for unrestricted use. For the purposes of this section, sales for export shall not only include sales made on condition that the identical commodities sold be exported, but shall also include sales made on condition that commodities of the same kind and of com-

parable value or quantity be exported, either in raw or processed form. Notwithstanding the foregoing, whenever prior to December 31, 1963, the Secretary determines it necessary in order to assure the Nation an adequate supply of milk free of contamination by radioactive fallout, he may make feed owned or controlled by the Commodity Credit Corporation available to producers of milk in any area or areas of the United States at such prices and on such terms and conditions as he deems appropriate in the public interest. Notwithstanding any other provision of law, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells upland cotton for export, in no event, however, at less than (A) 115 percent of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, or (B) if the Secretary permits the repayment of loans made for a crop of cotton at a rate that is less than the loan level determined for such crop, 115 percent of the average loan repayment rate that is determined for such crop during the period of such loans, and (2) the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly. Notwithstanding any other provision of this section, effective August 1, 1968, the Commodity Credit Corporation shall make available during each marketing year for sale for unrestricted use at market prices at the time of sale, a quantity of American grown extra long staple cotton equal to the amount by which the production of such cotton in the calendar year in which such marketing year begins is less than the estimated requirements of American grown extra long staple cotton for domestic use and for export for such marketing year: *Provided,* That no sales shall be made at less than 115 per centum of the loan rate for extra long staple cotton under section 101(f) of this Act beginning with the marketing year for the first crop for which the national marketing quota for extra long staple cotton is not established under paragraph (3) of section 347(b) of the Agricultural Adjustment Act of 1938, as amended [(7 U.S.C. 1347(b))]. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly. Notwithstanding any other provision of law, beginning upon the enactment of the Extra Long Staple Cotton Act of 1983 [August 26, 1983], the Commodity Credit Corporation may sell extra long staple cotton for unrestricted use at such price levels as

the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton.

* * * * * * *

[[PENALTIES FOR MISUSE OF FEED INTENDED TO RELIEVE DISTRESS OR PRESERVE FOUNDATION HERDS]

[SEC. 421. [(7 U.S.C. 1433)] Any person who disposes of any feed which has been made available to him under section 407 of this Act for use in relieving distress or for preservation and maintenance of foundation herds, other than as authorized by the Secretary, shall be subject to a penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and in addition shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year.]

* * * * * * *

TITLE V—ACREAGE BASE AND PROGRAM YIELD SYSTEM FOR THE WHEAT, FEED GRAIN, UPLAND COTTON, AND RICE PROGRAMS

* * * * * * *

[FARM ACREAGE BASES]

SEC. 503. [(7 U.S.C. 1463)] (a)(1) Except as provided in paragraph (2). the Secretary shall provide for the establishment and maintenance of farm acreage base for the 1986 and subsequent crop years.

(2) With respect to the 1986 crop year, the Secretary may forgo the establishment of farm acreage bases under this title.

(b)(1) The county committee, in accordance with regulations prescribed by the Secretary, shall determine the farm acreage base for a farm for a crop year. Such farm acreage base shall include the number of acres equal to the sum of the crop acreage bases for the farm.

(2) In the case of farm acreage bases established for the 1987 and subsequent crop years, the determination of the farm acreage base shall also include (in addition to the crop acreage bases for the farm) the sum of (A) the average of the acreage on the farm planted to soybeans in the 1986 and subsequent crop years, and (B) the average of the acreage on the farm devoted by the producer to a conserving use in the normal course of farming operations in the 1986 and subsequent crop years.

(c)(1) Notwithstanding any other provision of this Act, effective only for 1989 and 1990 crops, if the acreage limitation percentage established for the 1989 or 1990 crop of feed grains under section 105C(f) is less than 12.5 percent, the Secretary shall permit producers on a farm to designate any portion of the farm acreage base (excluding any portion designated as soybean acreage base) as acreage base established for oats.

(2) Producers on a farm who redesignate any portion of a farm acreage base as oats acreage base under paragraph (1) shall reduce by an equivalent quantity one or more crop acreage bases (excluding

any crop acreage base established for soybeans) established for the farm for such crop year.

[CROP ACREAGE BASES]

SEC. 504. [(7 U.S.C. 1464)] (a)(1) The Secretary shall provide for the establishment and maintenance of crop acreage bases for each program crop, including any program, crop produced under an established practice of double cropping. The sum of the crop, acreage bases for all program crops produced on any farm for any crop year shall not exceed the farm acreage base for such farm for such crop year, expect to the extent that the excess is due to an established practice of double cropping.

(2) The term "double cropping" means a farming practice, as defined by the Secretary, which has been carried out on a farm in at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

(b)(1)(A) Except as provided in subparagraph (B), the crop acreage base for a program crop for any farm for the 1986 and subsequent crop years shall be the number of acres that is equal to the average of the acreage planted and considered planted to such program crop for harvest on the farm in each of the five crop years preceding such crop year.

(B)(i) In the case of upland cotton and rice, except as provided in clause (ii), if no planted and considered planted acreage has been established for a farm for each of the five crop years preceding such crop year, the crop acreage base for such crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the five crop years preceding such crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm.

(ii) Any crop acreage base established in accordance with clause (i) shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the two crop years, preceding such crop year.

(2) The acreage considered planted to a program crop shall include—

(A) any reduced acreage, set-aside acreage, and diverted acreage on the farm:

(B) any acreage on the farm that producers were prevented from planting to such crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers:

(C) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted under section 107D(c)(1)(K), 105C(c)(1)(I), 103A(c)(1)(G), or 101A(c)(1)(G), as the case may be;

(D) in the case of each of the 1986 through 1989 crop years, acreage in an amount equal to not to exceed 50 percent of the permitted acreage for a program crop for each of the 1986 and 1987 crop years, 35 percent of the permitted acreage for the

1988 crop year, and 20 percent of the permitted acreage for the 1989 crop year, if—

(i) the acreage considered to be planted is planted to a crop, other than a program crop, peanuts, soybeans, extra long staple cotton, or commodities specified in clause (C);

(ii) the producers on the farm plant for harvest to the program crop at lest 50 percent of the permitted acreage for such crop; and

(iii) payments are not received by producers under 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and

(E) any acreage on the farm which the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base.

(3) For the purpose of determining the crop acreage base for the 1986 and subsequent crop years for any farm, the county committee, in accordance with regulations prescribed by the Secretary, may construct a planning history for such crop if—

(A) planting records for such crop for any of the five crop years preceding such crop year are incomplete or unavailable; or

(B) during at least one but not more than four of the five crop years preceding such crop year, the program crop was not produced on the farm.

(c) The Secretary may make adjustments to reflect crop rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable crop acreage base.

(d) If a county committee determines, in accordance with regulations prescribed by the Secretary, that the occurrence of a natural disaster or other similar condition beyond the control of the producer prevented the planting of a program crop on any farm within the county (or substantially destroyed any such program crop after it had been planted but before it had been harvested), the producer may plant any other crop, including any other program crop, on the acreage of such farm that, but for the occurrence of such disaster or other condition. Would have been devoted to the production of a program crop. For purposes of determining the farm acreage base or the crop acreage base, any acreage on the farm on which a substitute crop, including any program crop, is planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the other crop was substituted.

(e)(1) Notwithstanding any other provision of this Act, effective only for the 1989 and 1990 crops, if an acreage limitation program is in effect for a crop under this Act, the Secretary may permit producers to plant soybeans or sunflowers on not less than 10 percent, or more than 35 percent, of the permitted acreage for the crop, as determined by the Secretary.

(2) For purposes of determining the farm acreage base or the crop acreage base for the crop, any acreage on the farm on which soybeans or sunflowers are planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the soybeans or sunflowers were substituted.

(3) Not earlier than November 15, 1988, and not later than March 1, 1989, with respect to the 1989 crops, and not earlier than November 15, 1989, and not later than March 1, 1990, with respect to the 1990 crops, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for permitting or not permitting producers to plant soybeans or sunflowers on permitted acreage under this subsection. Such statement shall include—

(A) the estimated impact such action may have on soybeans, sunflowers, corn, wheat, upland cotton, extra long staple cotton, and rice;

(B) an economic evaluation of market effects due to permitting or not permitting the plantings of soybeans or sunflowers on permitted acreage;

(C) an estimate of foreign production of oilseeds, and the impact of such plantings on domestic oilseed markets; and

(D) such other factors as the Secretary considers appropriate.

* * * * * * *

TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

SHORT TITLE

SEC. 601. This title may be cited as the "Emergency Livestock Feed Assistance Act of 1988".

DEFINITIONS

SEC. 602. As used in this title:

(1) The term "livestock producer" means—

(A) any established producer or husbander of livestock, or dairy producer, who is a citizen of, or legal resident alien in, the United States; or

(B) any farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production, dairy production, or husbandry;

who is actively engaged in farming and who receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary.

(2) The term "livestock" means cattle, sheep, goats, swine, poultry (including egg-producing, poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

(B) are purchased as part of a normal operation and not to obtain additional benefits under this title.

(3) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(4) The term "feed", for the purposes of emergency feed assistance, means any type of feed (including feed grain, mixed feed, liquid or dry supplemental feed, roughage, pasture, forage) that—

(A) best suits the livestock producer's operation; and

(B) is consistent with acceptable feed practices.

EMERGENCY LIVESTOCK ASSISTANCE

SEC. 603. The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock in any State, county, or area of a State, where, because of disease, infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster that adversely affects livestock or handling of livestock, the Secretary determines that a livestock emergency exists.

DETERMINATION OF NEED FOR ASSISTANCE

SEC. 604. (a)(1) Whenever the Governor of a State or a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) determines that a livestock emergency due to a natural disaster exists in the State or county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in a State, county, or area and for emergency livestock feed assistance under this title.

(2) The Governor's or county committee's request for a livestock determination and for emergency livestock feed assistance shall include recommendations to the Secretary of those options that will most fully use feed available through local sources, to the extent feasible.

(b) The Secretary may consider a State, county, or area in a State for emergency livestock feed assistance under this title whether or not a request for assistance is submitted, as described in subsection (a).

(c) The Secretary shall act on requests for determinations under subsection (a) and make final determinations on whether a livestock emergency exists in any State, county, or area in accordance with regulations issued by the Secretary that ensure thorough and prompt action (not later than 30 days after receipt of such requests) and provide for appropriate notification procedures.

(d)(1) Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related condition in 1988, for the emergency feed program or emergency feed assistance program prior to the effective date of this title shall continue to be eligible for such program and may be eligible for other programs under this title for such drought or related condition.

(2) As soon as practicable after the effective date of this title, the Secretary shall determine whether any of the programs described in section 606, other than the emergency feed program and the live-

stock feed assistance program, should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

ELIGIBLE LIVESTOCK PRODUCERS

SEC. 605. If the Secretary determines that a livestock emergency exists in State, county, or area, subject to the limitation on benefits provided in section 609, livestock producers located in such State, county, or area shall be eligible for feed assistance in accordance with the following paragraphs:

(1) A livestock producer shall be eligible for such assistance if the producer has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the emergency and does not have sufficient feed that has adequate nutritive value and is suitable for such producer's livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 604) for the estimated duration of the emergency. Such producer shall be eligible for feed assistance under the programs specified in section 606 made available where the producer is located in quantities sufficient to meet the feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

(2) A livestock producer that does not produce feed on the farm or ranch or that produces feed on such producer's farm or ranch but normally not in quantities sufficient to feed all the producer's livestock, with respect to the portion of such producer's livestock not normally fed with feed produced on the farm, such producer shall be eligible for (A) assistance under section 606 for the preservation and maintenance of foundation herds of livestock (including producing dairy cattle) if the producer does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such livestock as a result of the emergency, as determined by the Secretary, and (B) such other assistance under section 606 as the Secretary, in the Secretary's discretion, determines necessary to alleviate a crisis caused by the livestock emergency.

(b) Any livestock producer located in a State, country, or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or related condition in 1988 prior to the effective date of this title, who qualifies for assistance under such pre-existing program, shall be eligible for assistance for such drought or related condition as prescribed in paragraph (1) (or, at the producer's option, for assistance under such pre-existing programs) and paragraph (2).

ASSISTANCE PROGRAMS

SEC. 606. (a) The following assistance programs may be made available by the Secretary under this title, subject to the limitation on benefits under sections 605 and 609, to livestock producers:

(1) The donation of feed owned or controlled by the Commodity Credit Corporation to producers who are financially unable

to purchase feed at market prices or to participate in any other program set forth in this subsection.

(2) The sale of feed owned or controlled by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

(A) with respect to assistance provided for drought or related condition in 1988, 75 percent of the current basic country loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

(B) with respect to assistance provided for any other livestock emergency, 50 percent of the average market price, as determined by the Secretary.

(3) Reimbursement of not to exceed 50 percent of transportation and handling expenses incurred by producers in conneciton with feed grain donations or sales under paragraph (1) or (2).

(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by producers for their livestock during the duration of the livestock emergency.

(5) Hay (or silage) transportation assistance of not to exceed 50 percent of the cost of transporting hay (or silage) purchased from a point of origin beyond such producer's normal trade area to the livestock, subject to the following limitations:

(A) The transportation assistance may not exceed $50 per ton of eligible hay ($12.50 for silage).

(B) The quantity of eligible hay (or silage) may not exceed—

(i) 20 pounds per day per animal unit (or a comparable quantity of silage, as determined by the Secretary); or

(ii) the lesser of the producer's feed loss or the quantity of additional feed needed for the duration of the livestock emergency.

(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, subject to the following limitations:

(A) Transportation assistance may not exceed $24 per head of eligible livestock.

(B) Transportation assistance may not exceed the lesser of the value of the producer's feed loss or the value of additional feed needed for the duration of the livestock emergency.

(b) If assistance is made available through the furnishing of feed grains under paragraph (1) or (2) of subsection (a), the Secretary may provide for the furnishing of the feed grains through a dealer or manufacturer and the replacing of the feed grains so furnished from feed owned or controlled by the Commodity Credit Corporation.

(c) In providing assistance under paragraph (2) or (4) of subsection (a), the Secretary may make in-kind payments through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with the rules prescribed by the Secretary.

ADDITIONAL ASSISTANCE

SEC. 607. (a) In addition to the assistance provided under section 606, if the Secretary determines that the livestock emergency in a State, county, or area also requires the provision of the assistance described in subsection (b), the Secretary shall provide such assistance.

(b) Special assistance under this section includes—

(1) donating feed owned or controlled by the Commodity Credit Corporation with respect to livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary shall by rule prescribe;

(2) making emergency water assistance available to eligible farmers and ranchers for livestock under terms and conditions comparable to the program designated ECP EC–6 by the Department of Agriculture; and

(3) making commodities available through a Commodity Credit Corporation catalog to producers through the use of catalog lots of a size that is economically feasible for small producers to obtain through commodity certificate exchanges.

USE OF THE COMMODITY CREDIT CORPORATION

SEC. 608. The Secretary shall carry out this title through the use of the funds, facilities, and authorities of the Commodity Credit Corporation.

PAYMENT LIMITATION

SEC. 609. (a) For each livestock disaster, the total amount of benefits that a person receives under one or more of the programs established under this title may not exceed $50,000.

(b) Any person that has gross revenues in excess of $2,500,000 annually shall not be eligible to receive any livestock emergency benefits under this title.

(c) Each person (including, in the case of a cooperative association of producers, each member of the association) otherwise eligible for livestock emergency benefits under this title for the drought or related condition in 1988 shall be subject to the combined payment and benefits limitation established under section 210(c) of the Drought Assistance Act of 1988.

(d) No person may receive benefits under this title attributable to lost production of a feed commodity due to the drought or related condition in 1988 to the extent that such person receives a disaster payment on such lost production.

(e) The Secretary shall issue regulations—

(1) defining the term 'person' in conformity, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), or a successor statute; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

REGULATIONS

SEC. 610. The Secretary shall issue regulations to carry out this title. Such regulations shall establish procedures to ensure that the request for assistance by a State, county, or area under section 604 and individual applications of livestock producers under sections 605 and 612 for assistance are processed, and decisions thereon are made, as quickly as practicable.

PENALTIES

SEC. 611. (a) Any livestock producer who disposes of any feed made available to such producer under this title other than as authorized by the Secretary shall be subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose.

(b) Any livestock producer who disposes of any feed made available to such producer under this title other than as authorized by the Secretary shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

DISASTER EMERGENCY ASSISTANCE

SEC. 612. (a) The Secretary shall provide assistance under this title to producers that—

(1) conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that a livestock emergency exists or where the President has determined that a major disaster or emergency exists in accordance with the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.); and

(2) are otherwise eligible for assistance under this title.

(b) The Secretary shall accept applications for such assistance from producers affected by such disaster or emergency at any time during the 8-month period beginning on—

(1) the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by the disaster or emergency; or

(2) the date the President makes the major disaster or emergency designation with respect to the disaster or emergency.

FOOD AND AGRICULTURE ACT OF 1977

[§ 2267. Emergency feed program

[(a) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Agriculture may implement an emergency feed program for assistance in the preservation and maintenance of livestock and poultry in any area of the United States, including Puerto Rico, Guam, and the Virgin Islands of the United States, where, because of flood, drought, fire, hurricane, earthquake, storm, or other natural disaster, the Secretary determines that an emergency exists.

[(b) CONDITIONS.—The Secretary shall not provide assistance under this section to any person unless all of the following conditions created by the emergency are present:

[(1) The person has suffered a substantial loss in the livestock or poultry feed normally produced on the farm for such person's livestock or poultry;

[(2) The person does not have sufficient feed that has adequate nutritive value and is suitable for each of such person's respective particular types of livestock or poultry for the estimated period of the emergency; and

[(3) The person is required to make feed purchases during the period of the emergency in quantities larger than such person would normally make.

[(c) REIMBURSEMENT.—Persons eligible for assistance under the program formulated under this section may be reimbursed for not to exceed 50 percentum of the cost of the feed purchased by such eligible persons during the period of emergency, as announced by the Secretary of Agriculture, or at such lower rate as may be established by the Secretary.

[(d) PENALTY FOR UNAUTHORIZED DISPOSITION OF FEED.—Any person who disposes of any feed for which such person is reimbursed under this section, in any manner other than as authorized by the Secretary, shall be subject to a penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose. In addition, such person shall be subject to a fine of not more than $10,000, or imprisonment for not more than one year, or both.

[(2) RULES AND REGULATIONS.—The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

[(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

[(g) DELEGATION OF AUTHORITY PROHIBITED.—Notwithstanding any other provision of law, the Secretary shall not delegate the authority to administer the emergency feed program to any other department, agency, or entity, public or private.]

DAIRY AND TOBACCO ADJUSTMENT ACT OF 1983

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EMERGENCY FEED ASSISTANCE

SEC. 303. * * *

["(a) As used in this section—

["(1) the term 'damaged corn' means corn that is classified as U.S. No. 4, U.S. No. 5, or U.S. Sample grade under section 810.353 of title 7, Code of Federal Regulations; and

["(2) the term 'eligible farmers and ranchers' means farmes and ranchers who are eligible to receive loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) [section 1961 of this title].

["(b) To assist eligible farmers and ranchers in areas that have been adversely affected by the drought, hot weather, or related disaster to preserve and maintain foundation herds of livestock and poultry (including their offspring), the Secretary of Agriculture shall make damaged corn held by the Commodity Credit Corpora-

tion available to such farmers and ranchers in accordance with section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) [this section].

["(c) In making damaged corn available to such farmers and ranchers under this section, the Secretary shall offer the damaged corn held by the Corporation at a price that is equal to 75 per centum of the current basic county loan rate for such corn in effect under the Agricultural Act of 1949 [this chapter] (or a comparable price if there is no such current basic county loan rate).

["(d) The Secretary shall make damaged corn available for sale, as provided under this section, until September 30, 1984, or the date, as determined by the Secretary, on which any emergency created by the drought, hot weather, or related disaster no longer exists."]

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PUBLIC LAW 86-299

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SALE OF FEED FOR LIVESTOCK IN EMERGENCY AREAS; DESIGNATION OF EMERGENCY AREA; CONDITIONS; PENALTY

SEC. 3. * * *

["That, notwithstanding the provisions of section 407 of the Agriculture Act of 1949 [this section], the Secretary of Agriculture is authorized to sell, at not less than the current basic county support rate including the value of any applicable price support payment in kind (or a comparable price if there is no current basic county support rate), any wheat, corn, oats, barley, rye, or grain sorghums (hereafter referred to as feed grains), owned by the Commodity Credit Corporation, to provide feed for livestock in any area determined by him to be an emergency area under section 2.

["SEC. 2. The Secretary may, after certification by the Governor of the State in which such area is situated of the need therefor, designate any area as an emergency area for the purposes of this Act if he determines that, as a result of flood, drought, hurricane, tornado, earthquake, or other catastrophe including disease or insect infestation, there is a shortage of feed for livestock in such area. 'State' means any State in the United States, Puerto Rico, and the Virgin Islands.

["SEC. 3. The Secretary shall not sell feed grains under this Act to any person unless he is satisfied that such person does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for livestock owned by him, and unless such person agrees to use the feed grains only for feed for such livestock. The Secretary may provide for the furnishing of feed grains or mixed feed, in accordance with regulations prescribed by him, to any such person by a feed dealer under an arrangement whereby feed grains in the feed so furnished would be replaced with feed grains owned or controlled by the Corporation and sold to such person at a price determined as provided in section 1.

[“SEC. 4. Any person who fails to carry out an agreement entered into under section 3 with respect to any feed grains purchased or furnished under this Act, or who disposes of any such feed grains other than by feeding to livestock owned by him, shall be subject to a penalty equal to but not in excess of the market value of the feed grains involved, to be recovered by the Secretary in a civil suit brought for that purpose, and in addition shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year.”]

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FOOD SECURITY ACT OF 1985

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TITLE XII—CONSERVATION

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Subtitle D—Conservation Acreage Reserve

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PAYMENTS

SEC. 1234. (a) The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subtitle—

(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as possible after the obligation is incurred; and

(2) with respect to any annual rental payment obligation incurred by the Secretary—

(A) as soon as practicable after October 1 of each calendar year; or

(B) at the discretion of the Secretary, at any time prior to such date during the year that the obligation is incurred.

(b) In making cost sharing payments to owners and operators under contracts entered into under this subtitle, the Secretary shall pay 50 percent of the cost of establishng conservation measures and practices set forth in such contracts for which the Secretary determines that cost-sharing is appropriate and in the public interest.

(c)(1) In determining the amount of annual rental payments to be paid to owners and operators for converting highly erodible cropland normally devoted to the production of an agricultural commodity to less intensive use, the Secretary may consider, among other things, the amount necessary to encourage owners or operators of highly erodible cropland to participate in the program established by this subtitle.

(2) The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subtitle may be determined through—

(A) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

(B) such other means as the Secretary determines are appropriate.

(3) In determining the acceptability of contract offers, the Secretary may—

(A) take into consideration the extent of erosion on the land is that subject of the contract and the productivity of the acreage diverted;

(B) where appropriate, accept contract offers that provide for the establishment of—

(i) shelterbelts and windbreaks; or

(ii) permanently vegetated stream borders, filter strips of permanent grass, forbs, shrubs, and trees that will reduce sedimentation substantially;

(C) establish different criteria in various States and regions of the United States to determine the extent to which erosion may be abated; and

(D) give priority to offers made by owners and operators who are subject to the highest degree of economic stress, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities.

(d)(1) Except as otherwise provided in this section, payments under this subtitle—

(A) shall be made in cash or in commodities in such amount and on such time schedule as is agreed on and specified in the contract; and

(B) may be made in advance of determination of performance.

(2) If such payment is made with in-kind commodities, such payment shall be made by the Commodity Credit Corporation—

(A) by delivery of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the highly erodible cropland is located or at such other location as is agreed to by the Secretary and the owner or operator;

(B) by the transfer of negotiable warehouse receipts; or

(C) by such other methods, including the sale of the commodity in commercial markets, as is determined by the Secretary to be appropriate to enable the owner or operator to receive efficient and expeditious possession of the commodity.

(3) If stocks of a commodity acquired by the Commodity Credit Corporation are not readily available to make full payment in kind to the owner or operator, the Secretary may substitute full or partial payment in cash for payment in kind.

(e) If an owner or operator who is entitled to a payment under a contract entered into under this subtitle dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(f)(1) the total amount of rental payments, including rental payments made in the form of in-kind commodities, made to an owner or operator under this subtitle for any fiscal year may not exceed $50,000.

(2)(A) The Secretary shall issue regulations—

(i) defining the term "person" as used in this subsection; and

(ii) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation contained in this subsection.

(B) The regulations issued by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970 (7 U.S.C. 1307), shall be used to determine whether corporations and their stockholders may be considered as separate persons under this subsection.

(3) Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that such owner or operator is otherwise eligible to receive under this Act or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(4) The provisions of this subsection and of section 1305(d) of the Agricultural Reconciliation Act of 1987 (Public Law 100–203; 7 U.S.C. 1308 note) that limit payments to any person shall not be applicable to payments received by a State or local governmental entity in connection with agreements entered into under a special conservation reserve enhancement program carried out by the entity that has been approved by the Secretary. The Secretary may never enter into such agreements for payments to State and local governmental entities that the Secretary determines will advance the purposes of this subtitle.

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